

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

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|------------------------------------|---|-------------------------------|
| CRISTOBAL ALVAREZ, <i>et al.</i> , |) | |
| |) | |
| Plaintiffs, |) | |
| |) | |
| v. |) | Case No. 2:17-cv-00414-RJ-JEM |
| |) | |
| ATLANTIC RICHFIELD COMPANY, |) | |
| <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

**DEFENDANT U.S. SMELTER AND LEAD REFINERY, INC.’S
MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM**

Pursuant to Federal Rules of Civil Procedure 12(b)(6) and 8(a), Defendant U.S. Smelter and Lead Refinery, Inc., d/b/a U.S.S. Lead Refinery, Inc. (“U.S. Smelter”) respectfully moves the Court for dismissal as to all counts in Plaintiffs’ complaint on the ground that the pleading fails to state any claim against U.S. Smelter on which relief can be granted.

In support of this motion, U.S. Smelter filed concurrently a supporting memorandum pursuant to N.D. Ind. L.R. 7-1(b)(1). Additionally, U.S. Smelter has filed with this motion its request for the Court to take judicial notice of three publicly available documents that are referenced in the accompanying memorandum.

WHEREFORE Defendant U.S. Smelter respectfully requests the Court for an order of dismissal as to all counts in the complaint and for all other just and appropriate relief.

Dated: January 22, 2018

Respectfully submitted,

/s/ Kevin M. Toner

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Company, Arava Natural Resources Company, Inc.,
and Mueller Industries, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2018, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Kevin M. Toner

Kevin M. Toner